



CHARTER AGREEMENT

This agreement is executed on this ____ day of _____ by and between the New Jersey Commissioner of Education and the New Jersey Department of Education (the "Department"), as the Commissioner's designees, (collectively, the "Authorizer"), and _____ (the "Applicant(s)") (collectively, the "Parties") to operate the _____ (the "School"), an independent and autonomous public school under the New Jersey Charter School Program Act, N.J.S.A. 18A:36A-1 *et seq.*

WITNESSETH:

WHEREAS the State of New Jersey (the "State") enacted the Charter School Program Act, (as amended, the "Act") codified as N.J.S.A. 18A:36A-1 *et seq.*; and

WHEREAS pursuant to sections 18A:36A-3 and 18A:36A-4 of the Act, the Commissioner of Education (the "Commissioner") has the authority to approve applications to establish charter schools in the State and thereafter to enter into agreements with applicants setting forth the terms and conditions under which a charter school is to operate; and

WHEREAS the applicant(s) ("Applicant(s)") submitted to the Authorizer an application for establishment of the School pursuant to section 18A:36A-5 of the Act (together than any addenda, the "Application"); and

WHEREAS the original application was approved by the Commissioner of Education on _____; and

WHEREAS the School's charter will be renewed on _____; and

WHEREAS the "Application" shall herein be defined as the initial School application, all renewal applications, and all subsequent modifications; and

WHEREAS the Commissioner granted final Charter approval on or before _____;

NOW, THEREFORE, in consideration of the mutual covenants, representations, warranties and agreements contained herein, the parties hereby agree as follows:

SECTION 1. ESTABLISHMENT OF SCHOOL

1.1 Charter. This agreement (the “Charter”), which explicitly incorporates the terms of, and content set forth in, the Application, attached hereto as Exhibit A, shall be binding on the School and the Commissioner and shall be construed in accordance with all laws, rules and regulations applicable to New Jersey charter schools.

1.2 Effective Date; Term. This Charter shall take effect upon, and only upon, its execution by the Commissioner (the “Effective Date”) pursuant to section 6A:11-2.1 of the New Jersey Administrative Code (the “Regulations”), and subject to any limitations imposed herein and any provision to delay the effective date set forth in this Charter. The Charter shall expire on _____, unless earlier revoked, surrendered or renewed. The Commissioner may grant a five year renewal following the initial four year charter.

1.3 Planning Years and Prior Actions. The School shall continue to provide instruction in conformity with the schedule set forth in the Application. Such an extension shall be identified in an Amendment to this Charter and any conditions under which an extension is offered shall be set forth there.

SECTION 2. OPERATION OF SCHOOL

2.1 Mission Statement. The School shall operate under the mission statement set forth in the Application:

2.2 Age; Grade Range; Number of Students. The School shall provide instruction to pupils in such ages, grades and numbers in each year of operation under the Charter as is set forth in the Application (the “Projected Enrollment Structure”) until Renewal, and shall obtain the prior written permission of the Authorizer for variances from those terms in grade range and total maximum approved enrollment.

2.3 Admissions; Enrollment; Attendance. The School shall have in place and implement comprehensive policies for admissions, enrollment and attendance, which such policies shall be approved by the School’s governing board (the “Board of Trustees”) and shall be consistent with applicable law. Such policies shall provide in detail the procedures and practices utilized by the School in regards to admission, enrollment, attendance and withdrawal, including, *inter alia*, the period in which applications for admission shall be timely, how to obtain an application for admission, the practices in operating the random selection process, the maintenance of a wait list, the implementation of the preferences required by law. Such changes must be consistent with applicable law and regulations, and the School must report such changes to the Authorizer, upon the Authorizer’s request, and as part of its annual report as required by section 18A:36A-16 of the Act, section 6A:11-2.2 of the Regulations, and further defined in paragraph 6.1 of this Charter. The School shall utilize reasonable outreach and marketing measures to make potential applicants aware of opportunities for enrollment at the School,

including, but not limited to, seeking the enrollment of a cross section of the school-age population, consistent with the requirements of section 18A:36A-8e. The Authorizer, upon a finding that the outreach and marketing measures taken by the School are inconsistent with applicable law or the representations made by the School in the Application and/or other submissions to the Authorizer, may require the School to take further action, including but not limited to, requiring the School to extend its enrollment period, delay or void its random selection process, and/or conduct further specified outreach and marketing steps.

2.4 Educational Program. The School shall implement and provide educational programs that meet or exceed the performance standards of the Authorizer and the goals, and measures of progress towards those goals, of the School as set forth in the Application and in other submissions to the Authorizer.

2.5 Evaluation of Students. The School shall implement student assessment requirements applicable to other public schools and administer State examinations to the same extent such examinations are required of other public school students. In addition, the School shall supplement those assessment tools with any other assessment tools required by the terms of its program design, as set forth in the Application.

2.6 Performance Framework.

2.6.1 The Performance Framework shall be incorporated into the Charter as Exhibit B. The Performance Framework shall supersede and replace any and all assessment measures, educational goals and objectives, financial operations metrics, and organizational performance metrics set forth in the Application and not explicitly incorporated into the Performance Framework. The specific terms, form and requirements of the Performance Framework, including any required indicators, measures, metrics, and targets, are maintained and disseminated by the Authorizer and will be binding on the School. Material amendments to the Performance Framework shall require approval by the Authorizer.

2.6.2. The Authorizer shall monitor and periodically report on the School's progress in relation to the indicators, measures, metrics and targets set out in the Performance Framework. Such reporting shall take place at least annually.

2.6.3. The School's performance in relation to the indicators, measures, metrics and targets set forth in the Performance Framework shall provide the basis upon which the Authorizer will decide whether to renew the School's Charter at the end of the Charter term.

2.6.4 The parties intend that, where this Charter references or is contingent upon state or federal laws, that they be bound by any applicable modifications or amendments to such laws upon the effective date of said modifications or amendments. The specific terms, form and requirements of the Performance Framework may be modified or amended to the extent required to align with changes to applicable state or federal accountability requirements as set forth in law or other circumstances that make assessment based on the existing Performance Framework requirements impracticable. In the event that such modifications or amendments are required,

the Department will use best efforts to apply expectations for school performance in a manner as consistent as possible with those set forth in the Performance Framework.

2.7 School Calendar; Days and Hours of Operation. The days and hours of operation of the School shall be determined by the School at its discretion subject to the following restrictions:

- (a) The School shall implement the calendar and days and hours of operation as set forth in the Application. In no event shall the School provide less instructional time during a school year than is required of other public schools with instructional time to be divided in generally equal amounts over no less than one hundred and eighty (180) days.
- (b) To allow parents to determine whether the School's program is appropriate for their child(ren), the School shall, in each year of the Charter, determine the days and hours of operation of the School for the next school year by May 15 of the then current school year and shall make such information readily available to parents seeking to enroll their child(ren) in or return their child(ren) to the School and provide a copy of such material to the Authorizer. The School shall not thereafter for the next school year make any material changes to the days and hours of operation of the School from those determined on each May 15 date that have the effect of shortening the number of days of instruction or hours in which such instruction is provided without obtaining the prior written permission of the Authorizer, it being understood that such permission shall not be forthcoming except for good cause shown.

2.8 Student Disciplinary Code. The School shall maintain written rules and procedures for student discipline, including guidelines for suspension and expulsion, and shall disseminate those procedures to students and parents. Such guidelines and procedures must be consistent with applicable law including, but not limited to, requirements for due process, provision of alternative instruction and federal laws and regulations governing the discipline and placement of students with disabilities. In the first year of operation, the discipline policy must be consistent with the discipline policy outlined in the Application and adopted by the Board of Trustees following initial approval of the Application. Thereafter, if the School seeks modifications to the student disciplinary code, it will be required to notify the Authorizer of such change.

2.9 Code of Ethics. The School, its trustees, officers and employees shall abide by a code of ethics for the School, which must be consistent with the requirements of the School Ethics Act and include standards with respect to disclosure of conflicts of interest regarding any matter brought before the Board of Trustees regardless of whether the matter may involve for-profit or not-for-profit entity or transaction. The School shall disseminate the code in written form to each of its trustees, officers and employees.

2.10 Governance; Board of Trustees; By-Laws. The School shall be governed by the Board of Trustees. The Board of Trustees of a charter school shall have the authority to

decide matters related to the operations of the school including budgeting, curriculum, and operating procedures, subject to the school's charter, and shall have final authority for the academic performance of the School. Nothing herein shall prevent the Board of Trustees from delegating decision-making authority for policy and operational decisions to officers, employees and agents of the School but ultimate responsibility for and oversight of any such delegated authority shall remain at all times with the Board of Trustees. The Board of Trustees shall be established and operate pursuant to the following requirements and restrictions:

- (a) The Board of Trustees shall operate pursuant to the by-laws of the School whether such by-laws be those initially submitted to the Authorizer or as amended pursuant to subparagraph (b) of this paragraph 2.10 (initially or as amended, the "By-laws"), as well as the governance provisions of the Act, the Regulations and other applicable law.
- (b) The Board of Trustees shall have as its members such total number of Trustees and shall reserve seats on the Board of Trustees for such specified members or constituent groups in such numbers as is set forth in the Application and By-laws, as may be amended. Board of Trustees members ("Trustees") shall comply with the relevant provisions of the School Ethics Act, 18A:12-23, and related regulations, 6A:28.

2.11 Complaint Policy. The School shall maintain a complaint policy to receive and handle complaints brought pursuant to section 18A:36A-15 of the Act. . The School shall have the power to amend the complaint policy in any way it deems necessary and appropriate, so long as, such amendments are approved by the Board of Trustees and are consistent with applicable law and due process, and reported as part of the School's Annual Report as required by paragraph 6.1 of this Charter. A copy of the School's complaint policy shall be distributed to the parents and/or guardians of students enrolled in the School and made readily available to all others requesting a copy. Upon resolution of a complaint, the School shall provide to the complainant:

- (a) its written determination and any remedial action thereto; and
- (b) for complaints relating to the provisions of the Act, a written notice to the complainant that he or she may appeal the determination of the Board of Trustees to the Commissioner, who shall investigate and respond to the complainant; and
- (c) a copy of the School's grievance policies.

2.12 Health Services. The School shall provide such health services as are set forth in the Application or their equivalent, so long as the services provided meet applicable law.

2.13 Food Services. The School shall provide appropriate food services consistent with or equal to those outlined in the Application.

2.14 Facility; Location. The building(s) in which the School is to be located shall be known as the school facility (the “School Facility”). The School shall be located at _____. The School shall take such actions as are necessary to ensure that the Facility Agreement, licenses and certificates are valid and in force at all times that the Charter is in effect.

2.15 Change in Location. To change the physical location of the School Facility or obtain additional buildings for the School Facility within the same school district or obtain additional space in a building it already occupies, the School must follow the Amendment process as described in section 6A:11-2.6 of the New Jersey Administrative Code.

2.16 Monitoring and Oversight. The School and the Board of Trustees acknowledge that the Authorizer, or its authorized agents, have the right to visit, announced or unannounced, examine into and inspect the School and its records. To permit the Authorizer to fulfill this oversight function under the Act and ensure that the School is in compliance with all applicable laws and regulations and the terms and conditions of this Charter, the School agrees to abide by the requirements and activities that the Authorizer will utilize to exercise its monitoring responsibility.

2.17 Establishment of an Escrow Account. The School and the Board of Trustees agree to establish an escrow account of no less than \$75,000 to pay for legal and audit expenses and any outstanding pension benefits that would be associated with a dissolution should it occur. The School may accrue the full amount of the escrow account over a five year period.. The School’s failure to provide for the \$75,000 by the end of the five year period shall be deemed a material violation of the charter agreement.

SECTION 3. SPECIAL EDUCATION

3.1 Provision of Services. The School shall provide services and accommodations to students with disabilities as set forth in the Application and in accordance with the any relevant polices thereafter adopted, as well as with all applicable provisions of the Individuals with Disabilities Education Act (20 U.S.C. § 1401 *et seq.*) (the “IDEA”), the Americans with Disabilities Act (42 U.S.C. § 12101 *et seq.*) (the “ADA”) and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794) (“Section 504”) and all applicable regulations promulgated pursuant to such federal laws. This includes providing services to attending students with disabilities in accordance with the individualized education program (“IEP”) recommended by a student’s IEP team. The School shall comply with all applicable provisions of section 18A:46-1 *et seq.* and section 6A:11-4.8 of the Regulations concerning the provision of services to students with disabilities.

3.2 Funding and Placement Outside the School. The School is authorized to receive from a local school district direct payment of any federal or state aid attributable to a student with a disability attending the School. Consistent with section 18A:36A of the Act, the fiscal responsibility for any student currently enrolled in or determined to require a private day or residential school shall remain with the district of residence. Within fifteen (15) days of the signing of an IEP, the School shall provide notice to the district of residence of any IEP which results in a private day or residential placement. The district of residence may challenge the placement within thirty (30) days in accordance with the procedures established by law.

SECTION 4. PERSONNEL

4.1 Personnel Policies; Staff Responsibilities. The School shall make available to the Authorizer in written form its hiring and personnel policies and procedures, including the qualifications required by the School in the hiring of teachers, school administrators and other school employees as well as a description of staff responsibilities.

4.2 Instructional Providers. The School shall employ, or otherwise utilize in, instructional positions only those individuals who are certified in accordance with the requirements applicable to other public schools, or who are otherwise qualified to teach under section 6A:9 *et seq.* of the Regulations, and applicable federal law including the federal No Child Left Behind Act of 2001. For purposes of this section, "instructional positions" means all those positions involving duties and responsibilities that, if otherwise undertaken in the New Jersey public schools, would require teacher certification.

4.3 Paraprofessionals. Paraprofessionals employed by the School for instructional purposes must meet all credentialing requirements imposed under section 6A:9 *et al.* and by applicable federal law.

4.4 Background Checks; Fingerprinting. The School shall maintain and implement procedures for conducting background checks (including a fingerprint check for a criminal record) of, and appointing on an emergency conditional basis (if applicable), all school employees and prospective employees (whether part or full time) of the School, as well as any individual who has regular access to the students enrolled in the school (including, but not limited to, employees and agents of any company or organization which is a party to a contract to provide services to the School) to the extent required by applicable law, including sections 18A:6-7.1, *et seq.*, and 18A:30-19.1. Consistent with section 6A:11-2.1 of the Regulations, the School shall provide to the Authorizer in advance of final charter approval and on a rolling basis thereafter, an Authorization for Emergent Hiring Pending Completion of Criminal History Check form or Criminal History Approval letter for each employee of the School. The School may, but is not required to, conduct any and all other background checks permitted by law.

4.5 Collective Bargaining. In all cases when the School is a party to a collective bargaining agreement, the School must provide a copy thereof to the Authorizer

including any extensions and side letters. In addition, the School will comply with the requirements of section 18A:36A-14 of the Act and other applicable law with regard to participation in collective bargaining units and agreements.

4.6 Leave and Pension Payments. Consistent with section 18A:36A-14(d), public school employees may request a leave of absence of up to three (3) years from the local board of education or State district superintendent in order to work in the School. Employees on a leave of absence shall remain in and continue to make contributions to, their retirement plan during the time of leave and shall be enrolled in health benefits plan of the district in which the School is located. The School shall make any required employer's contribution to the district's health benefits plan.

SECTION 5. FINANCIAL OPERATIONS OF SCHOOL

5.1 Management and Financial Controls. The School shall at all times maintain appropriate governance and managerial procedures and financial controls; including but not limited to the identification of a School Business Administrator, the resources and professional assistance needed to conduct an annual audit, and carry out the relevant requirements of section 6A:11-2.1(h) by June 30 in advance of opening, as part of the preparedness measures for new schools.

5.2 Funding and Timing of Payments. The School will receive payments as set forth in section 18A:36A-12 of the Act. Consistent with section 6A:23A of the Finance and Business Service Code, the district of residence and non-resident district(s) shall initiate payments to the School based on projected enrollment, as set forth in section 6A:23-9.4(a). Those districts shall pay directly to the School the local share per pupil for the specific grade level at the school rate pursuant to section 6A:23-9.1 and 9.4 in twelve (12) equal installments starting on July 15 and thereafter on the 15th of each month. The district of residence and non-resident district(s) shall also pay directly to the School additional categories of funds identified at section 6A:23-9.5(k)(3) on the schedule set forth there.

5.3 Financial Statements; Interim Reports. All financial statements that the School is required to prepare shall be in accordance with generally accepted accounting principles. During each year of operation, the School shall prepare and submit to the County Offices of Education within thirty (30) days of the end of each quarter (except June 30th) of its fiscal year the Board Secretary's report for that preceding quarter.

5.4 Audits. The School shall retain an independent certified public accountant or certified public accounting firm licensed in the State to perform annually an audit of the School's annual financial statements. The independent audit of the School's financial statements must be performed in accordance with generally accepted auditing standards and *Government Auditing Standards* issued by the Comptroller General of the United States, as well as any additional requirements and guidelines provided by the Authorizer. The audited financial statements must be submitted to the Authorizer by December 5 of each year. In addition, and pursuant to the same timetable, the School must require its independent certified public accountant to issue a report on compliance with laws, regulations, contracts and grants and on internal controls over financial reporting, based on its audit of the financial statements. The

School must submit this report to the Authorizer together with a corrective plan addressing any weaknesses or problems identified in the planning and performance of the audit. The corrective plan must address each suggestion for consideration of management contained in the compliance report and include a timetable that identifies the date by which each corrective step will have been completed.

5.5 Fiscal Year. The fiscal year of the School shall begin on July 1 of each calendar year of the term of this Charter and shall end on June 30 of the subsequent calendar year.

5.6 Annual Budget and Cash Flow Projections. The School shall prepare and provide to the Authorizer a copy of its annual budget and cash flow projection for each fiscal year by no later than March 30 of the immediately preceding fiscal year. In the event that the October 15 enrollment count or other budgetary changes differs in any material respect from the budget provided, the School shall provide a revised annual budget and cash flow projection for each fiscal year in which it provides instruction. The annual budget and cash flow projection shall be in such form and electronic format as prescribed and disseminated by the Authorizer.

SECTION 6. REPORTS

6.1 Annual Reports. No later than August 1 following a school year in which the school is in operation, the School, pursuant to section 6A:11-2.2 of the Regulations, shall submit to the Authorizer, the respective county superintendent of schools, and the district board(s) of education or State district superintendent of the district of residence of a charter school, an Annual Report setting forth the academic program and performance of the School for the preceding school year. The School shall also make the Annual Report available to parents or guardians of the students enrolled in the School. The Annual Report shall be in such form as shall be prescribed by the Commissioner and shall, at a minimum, address the mission, goals and objectives of its charter as measured against the Performance Frameworks and provide evidence of the school's compliance with applicable statutes and regulations

6.2 Additional Documentation. The district board(s) of education or Executive County Superintendent(s) of the district of residence of the School may submit comments regarding the Annual Report to the Commissioner by October 1.

6.3 Financial Reports. The School shall provide the financial reports required by this Charter pursuant to the terms and dates specified therein.

SECTION 7. OTHER COVENANTS AND WARRANTIES

7.1 Compliance with Laws and Regulations. The School shall operate at all times in accordance with the Act and other applicable laws, rules and regulations and shall meet the same health and safety, civil rights, and student assessment requirements as are applicable to other public schools, except as otherwise set forth in the Act.

7.2 Nonsectarian Status. The School shall be nonsectarian in its programs, admissions policies, employment practices and all other operations. The School shall not be wholly or in part under the control or direction of any religious denomination.

7.3 Open Public Records Act and Open Public Meetings Act. The School shall maintain and implement policies in order to ensure that it is in compliance with the Open Public Records Act and the Open Public Meetings Act and any corresponding regulations.

7.4 Non-discrimination. The School shall not discriminate against any student, employee or any other person on the basis of ethnicity, national origin, gender (except with respect to single-sex schools), or disability or any other ground that would be unlawful if done by any other public school. It shall take all steps necessary to ensure that discrimination does not occur, as required by federal civil rights law.

7.5 Transactions with Affiliates. The School shall not, directly or indirectly, enter into or permit to exist any transaction (including the purchase, sale, lease or exchange of any property or the rendering of any service) with any affiliate of the School, any member past or present of the Board of Trustees or any employee past or present of the School, or any immediate family member of the foregoing individuals, unless:

- (a) the terms of such transaction (considering all the facts and circumstances) are no less favorable to the School than those that could be obtained at the time from a person that is not such an affiliate, member or employee or an individual related thereto; *and*
- (b) the involved Trustee, officer or employee must recuse him/herself from voting on or deciding any matters related to such transaction.

SECTION 8. RENEWAL; REMEDIAL PLANS; TERMINATION

8.1 Renewal Notice. No later than October 15 in the calendar year prior to expiration of the Charter, the School may provide to the Commissioner, the respective county superintendent of schools, and the district board(s) of education or State district superintendent(s) of the district of residence of the charter school, an application to renew the Charter in accordance with section 18A:36A-17 (the "Renewal Application"). The Renewal Application shall conform to the Authorizer's requirements, including those set forth at 6A:11-2.3 of the Regulations.

8.2 Denial of Renewal. In the event that the Renewal Application is not approved, then the parties to the Charter shall fulfill their respective obligations hereunder to the

end of the term of this Charter, and the School shall follow the procedures for dissolution established by the Authorizer.

8.3 Grounds for Termination or Revocation. The Commissioner may revoke the Charter pursuant to any and all statutory and regulatory authority conferred upon the Commissioner.

8.4 Appeal Process. Consistent with section 6A:11-2.5 of the Regulations, the School may file an appeal according to section 6A:4-2.5 of the Regulations.

8.5 Dissolution. In the event of termination of the Charter, whether prematurely or otherwise, the School shall establish and follow procedures consistent with those articulated by the Authorizer as set forth in the New Jersey Charter School Dissolution Plan attached as Exhibit C.

SECTION 9. MISCELLANEOUS

9.1 Disclaimer of Liability. The Parties acknowledge that the School is not operating as the agent, or under the direction and control, of, the Authorizer except as required by law or this Charter, and that the Authorizer does not assume any liability for any loss or injury resulting from:

- (a) the acts and omissions of the School, its directors, trustees, agents or employees; or
- (b) the use and occupancy of the building or buildings, occupied by the School, or any matter in connection with the condition of such building or buildings; or
- (c) any debt or contractual obligation incurred by the School.

The School acknowledges that it is without authority to extend the faith and credit of the Authorizer to any third party.

9.2 Governing Law. This Charter shall be governed by, subject to and construed under the laws of the State of New Jersey without regard to its conflicts of laws provisions.

9.3 Waiver. No waiver of any breach of this Charter shall be held as a waiver of any other or subsequent breach.

9.4 Counterparts; Signature by Facsimile. This Charter may be signed in counterparts, which shall together constitute the original Charter. Signatures received by facsimile by either of the parties shall have the same effect as original signatures.

9.5 Revision. This Charter may be revised only by written consent of the parties hereto and, in the case of material revisions, only pursuant to section 6A:11-2.6 of the Regulations.

9.6 Assignment. This Charter may not be assigned or delegated by the Applicant(s) without the Authorizer's express written approval.

9.7 Notices. Any notice, demand, request or submission from one party to any other party or parties hereunder shall be deemed to have been sufficiently given or served for all purposes if and as of the date, it is delivered by hand, overnight courier, facsimile (with confirmation), by electronic mail as an attachment thereto with an valid electronic signature or an electronic image of a physical signature (.pdf format) or within three (3) business days of being sent by registered or certified mail, postage prepaid, to the relevant parties.

9.8 Severability. In the event that any provision of this Charter or the Application shall be determined to be invalid, unlawful, or unenforceable to any extent, the remainder of this Charter and the application of such provision to persons or circumstances other than those as to which it is determined to be invalid, unlawful or unenforceable, shall not be affected thereby, and each remaining provision of this Charter shall continue to be valid and may be enforced to the fullest extent permitted by law.

9.9 Entire Charter. The Charter supersedes and replaces any and all prior agreements and understandings between the Authorizer and the Applicant(s). To the extent that any conflict or incompatibility exists between the Application and the other terms of this Charter, such other terms of this Charter shall control.

9.10 Construction. This Charter shall be construed fairly as to both parties and not in favor of or against either party, regardless of which party prepared the Charter.

9.11 Ratification. The Board of Trustees of the School shall pass a board resolution acknowledging the terms and conditions of this charter as agreed to by the signature of the Board President.

**NEW JERSEY DEPARTMENT
OF EDUCATION**

Date

By: David C. Hespe

Title: Acting Commissioner

CHARTER SCHOOL

Date

By:

President, Board of Trustees:

Date of Board resolution: